

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

ROBERT HAMPTON, an individual,

Plaintiff,

vs.

NUSTAR MANAGEMENT FINANCIAL  
GROUP, *et al.*,

Defendants.

Case No. 2:05-cv-00824-BES-GWF

**ORDER & FINDINGS AND  
RECOMMENDATIONS**

**Plaintiff's Motion to Enter Discovery  
Plan and Scheduling Order (#22)**

This matter is before the Court on Plaintiff's Motion to Enter Discovery Plan and Scheduling Order (#22), filed on December 28, 2007, and Defendant's Opposition to Plaintiff Robert Hampton's Motion to Enter Discovery Plan and Scheduling Order (#24), filed on January 4, 2008. The Court held a hearing in this matter on January 7, 2008. Counsel for the Plaintiff did not appear at the hearing.

This action was filed in June 2005. The parties did not submit a discovery plan and scheduling order until Plaintiff filed his instant Motion (#22) on December 28, 2007, after the Court gave notice to counsel pursuant to Local Rule 41-1 that the case would be dismissed in thirty (30) days if no action was taken. Plaintiff's Motion (#22) fails to provide any reason or explanation for the delay in submitting a proposed discovery plan and scheduling order in this case. Additionally, as set forth above, Plaintiff did not respond to Defendant's Opposition or appear for the hearing on the motion. Accordingly,

**IT IS HEREBY ORDERED** that Plaintiff's Motion to Enter Discovery Plan and Scheduling Order (#22) is **denied**.


**RECOMMENDATION**

**IT IS HEREBY RECOMMENDED** that this action be dismissed for want of prosecution pursuant to Fed. R. Civ. P. 41.

**NOTICE**

Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in writing and filed with the Clerk of the Court within ten (10) days. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

DATED this 7th day of January, 2008.

  
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**GEORGE FOLEY, JR.**  
**UNITED STATES MAGISTRATE JUDGE**